

NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

UNITE HERE Local 7, AFL-CIO (SSP America, Inc.) and Mary Sheila Carver. Case 05-CB-064466

June 5, 2012

DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS GRIFFIN
AND BLOCK

The Acting General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge filed by Mary Sheila Carver on September 12, 2011, the Acting General Counsel issued the complaint and notice of hearing on December 30, 2011 against UNITE HERE Local 7, AFL-CIO, the Respondent, alleging that it has violated Section 8(b)(1)(A) of the Act. The Respondent failed to file an answer.

On March 8, 2012, the Acting General Counsel filed a Motion for Default Judgment with the Board. Thereafter, on March 9, 2012, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was received by January 13, 2012, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer to the complaint, we deem the allegations in the complaint and notice of hearing to be admitted as true, and we grant the Acting General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, SSP America, Inc., the Employer, a California corporation with an office and place

of business located at Baltimore-Washington International Airport located in Baltimore, Maryland, has been engaged in the business of providing food and beverage services.

During the 12-month period preceding issuance of the complaint, a representative period, the Employer, in conducting its business operations described above, received goods valued in excess of \$50,000 from points located directly outside the State of Maryland.

We find that SSP America, Inc. is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that UNITE HERE Local 7, AFL-CIO, the Respondent, is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals have held the positions set forth opposite their respective names and have been agents of the Respondent within the meaning of Section 2(13) of the Act:

Emilio Abate	Lead Organizer
Patrick Griffin	Organizer

At all material times, by Section 9(a) of the Act, the Respondent has been the exclusive collective-bargaining representative of the following employees of the Employer (the unit):

All regular full-time and part-time employees employed by the Employer in its food, beverage, service, and merchandise operations at Baltimore-Washington International Airport, including: Bartender I, Bartender II, Bar Back, Cashier, Cook, Baker, Fast Food Cook, Grill/Fry Cook, Driver, Food Preparer, Host, Lead Worker, Maintenance I, Maintenance II, Retail Sales Associate, Server, Snack Bar Attendant, Utility, and Busser; excluding all office clerical workers, professional employees, guards, and supervisors as defined in the Act.

At all material times, the Respondent and the Employer have maintained and enforced a collective-bargaining agreement, the most recent of which is effective from February 22, 2010 to February 21, 2012, and which sets forth the terms and conditions of employment for the unit.

On about August 8, 2011, at the Respondent's Baltimore office, Carver requested from Respondent agent Patrick Griffin a copy of the effective collective-bargaining agreement between the Respondent and the Employer. The Respondent did not provide Carver with

a copy of the effective collective-bargaining agreement at that time.

On about August 31, 2011, by telephone, Carver requested from Respondent Agent Patrick Griffin a copy of the effective collective-bargaining agreement between the Respondent and the Employer. The Respondent did not provide Carver with a copy of the effective collective-bargaining agreement at that time.

The Respondent failed and/or refused to provide Carver with the requested copy of the effective collective-bargaining agreement until October 12, 2011.

CONCLUSION OF LAW

By the conduct described above, the Respondent has been restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(b)(1)(A) of the Act. The Respondent's unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically we shall order the Respondent to post a notice to members.

ORDER

The National Labor Relations Board orders that the Respondent, UNITE HERE Local 7, AFL-CIO, Baltimore, Maryland, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Failing promptly to comply with employees' requests for a copy of the effective collective-bargaining agreement with the Employer.

(b) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its Baltimore, Maryland, facility copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees and

members are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its members by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material.

(b) Within 14 days after service by the Region, deliver to the Regional Director for Region 5 signed copies of the notice in sufficient number for posting by the Employer at its facility located at Baltimore-Washington International Airport, if it wishes, in all places where notices to employees are customarily posted.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 5 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. June 5, 2012

Mark Gaston Pearce, Chairman

Richard F. Griffin, Jr., Member

Sharon Block, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO MEMBERS

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain on your behalf with your employer

Act together with other employees for your benefit and protection

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse, upon request, promptly to provide you with a copy of our collective-bargaining agreement with the Employer.

WE WILL NOT in any like or related manner, restrain or coerce you in the exercise of the rights listed above.

UNITE HERE LOCAL 7, AFL-CIO